

MDR Tracking Number: M5-04-1075-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 12-12-03.

The IRO reviewed office consultations, aquatic therapy, myofascial release, electrical stimulation, vasopneumatic device therapy, joint mobilization, neuromuscular re-education, physical medicine procedures, therapeutic activities, nerve stimulation, office visits, hot/cold packs, unlisted procedures, and manual therapy from 12-12-02 through 8-27-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO concluded that the joint mobilization, myofascial release, manual therapy, and hot/cold packs from 12-12-02 through 8-27-03, 99211 on 6-18-03 and 6-23-03, 99212 on 8-11-03, 8-13-03, 8-15-03, 8-18-03, and 8-22-03, 99213 on 6-11-03, 99213-MP on 7-18-03, 99214 on 7-21-03 and 8-27-03, only one unit of aquatic therapy from 12-18-02 through 2-5-03, two units each of 97110 and 97530 from 12-18-02 through 2-5-03 and from 4-14-03 through 7-2-03 **were** medically necessary. The IRO agreed with the previous adverse determination on all other treatments and procedures rendered from 12-12-02 through 8-27-03. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 3-2-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice. The requestor failed to submit relevant information to support components of the fee dispute per Rule 133.307(g)(3) (A-F). No reimbursement recommended.

This Decision is hereby issued this 6th day of May 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 12-2-02 through 8-27-03 in this dispute.

This Order is hereby issued this 6th day of May 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

May 13, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT

Returning revised report of 02/23/04 to the original report as submitted 02/20/04.

Re: Medical Dispute Resolution
MDR #: M5-04-1075-01
IRO Certificate No.: 5055

Dear Ms. Lopez:

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

REVIEWER'S REPORT

Information Provided for Review:

Correspondence
H&P and office notes
Physical Therapy notes
Operative reports
Radiology reports

Clinical History:

A 61-year-old insulin-dependent diabetic male fractured his left arm in three places in a work-related accident on _____. Radiographs performed later at the ER diagnosed it as a "comminuted spiral fracture extending from the proximal metaphysis to the middle 1/3 of the diaphysis." Due to non-union of one of the fracture sites, he eventually underwent two surgeries – one in July 2002 and the second one in April 2003 – and also received extensive physical therapy.

Disputed Services during the period of 12/12/02 thru 08/27/03:

- Consult
- Aquatic therapy
- Myofascial release
- Electrical stimulation
- Vasopneumatic device therapy
- Joint mobilization
- Neuromuscular re-education
- Physical medicine procedures
- Therapeutic activities
- Nerve stimulization
- Office visits
- Hot/cold pack therapy
- Unlisted procedures
- Manual therapy

Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

Medically necessary:

Joint mobilization (97265)
Office visit, extended problem-focused (99213) on 06/11/03
Office visits, minimal (99211) on 06/18/03, 06/23/03
Office visit, extended problem-focused w/manipulation (99213-MP)
on 07/18/03
Office visit for re-evaluation (99214) on 07/21/03, 08/27/03
Office visits, problem-focused (99212) on 08/11/03, 08/13/03, 08/15/03,
08/18/03, 08/22/03
Aquatic therapy (97113) – one unit from 12/18/02 thru 02/05/03

Therapeutic exercises (97110) or Therapeutic activities (97530) – total of two (2) units from 12/18/02 thru 02/05/03, and a total of two (2) units from 04/14/03 thru 07/02/03

Myofascial release (97250)

Manual therapy (97140-59)

Hot/cold pack therapy

Not medically necessary:

All other treatments and procedures rendered from 12/12/02 thru 08/27/03

Rationale:

The medical records submitted, and the diagnosis rendered in this case, well supports the need for joint mobilization, periodic reevaluations, and both minimal and problem focused office visit encounters. However, it was not medically necessary to perform a higher level of Evaluation and Management (“E/M”) service with a 99213 (that includes an expanded problem focused history, and/or an expanded problem focused examination, and/or include medical decision making of low complexity) when routine reevaluations were being performed as 99214.

The office visit note submitted as 99213-MP on 7/09/03 (unlike DOS 7/18/03) failed to document that manipulation was performed. Absent that documentation in the medical record, it is denied on the same basis that the other 99213s were denied.

The medical records and the diagnosis in this case fail to support the medical necessity of the vasopneumatic device therapies, the neuromuscular re-education services, the unlisted procedures and the nerve stimulators, so they are all denied.

While the medical records, along with the diagnosis, support a conservative clinical trial from 12/02 through 02/03, due to the fact that this injury is strictly to the left upper extremity, the medical necessity for aquatic therapy beyond one unit, and therapeutic exercise or therapeutic activities beyond two units per encounter cannot be supported. Although the post-surgical therapy that was performed from mid April 2003 through early July 2003 is deemed reasonable, more than one unit of aquatic, and more than two units of either therapeutic exercise or therapeutic activities is not supported. (It should be noted that an extension is even being given beyond the customary 8-weeks post-surgical limitation usually given due to the severity of the injury, as well as the complicating factors of this patient’s condition [namely, diabetes mellitus]). However, continued exercise therapy beyond 7/2/03 is not supported because the treatment could easily have been transferred to a patient home program at that point.

After reviewing the medical records supplied, there is no clear request for a consultation on the part of the treating doctor at that time. Furthermore, none of the consultant’s records include a report directed back to the treating doctor. Absent this proper documentation, the medical necessity for a consultation is not supported.

Later, on DOS 4/14/03, the consulting physician again reported a consultation code for his re-evaluation. This again is inappropriate. The records submitted more appropriately support that an E/M, established patient, service was performed rather than a follow-up consultation because at that point, the consulting physician had certainly assumed a large portion of Mr. Riley's care.

In terms of the physical medicine procedures (95851 and 95834), according to the American Chiropractic Association's publication entitled the *Chiropractic Coding Solutions Manual*, it states that these codes are a component of an E/M code and would have been performed along with the periodic reevaluations. Therefore, it was not medically necessary to perform them again separately.

Additional Comments:

It appears that the consulting physician should have reported his initial patient encounter of 12/18/02 as an E/M code for a new patient, because while the medical necessity for the performance of a consultation was not supported, the necessity for a new patient evaluation certainly would have been. However, even if this code had been properly documented as a consultation request, the records did not support the need for a service of this high complexity (99244 requires a comprehensive history, a comprehensive examination, and medical decision making of moderate complexity). Rather, the documentation submitted supported the performance of a detailed new patient encounter.